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10 Attorneys for defendant
11 Butler, Robbins & White

ORIGINAL
FILED

APR 23 2008

RICHARD W. WIERING
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

MHP

14 SANDRA MA,
15 Plaintiff,

CV

CASE NO.

08

2131

NOTICE OF REMOVAL

16 vs.

BY FAX

17 FINANCIAL CREDIT CLEARING
18 HOUSE - 1956 INCORPORATED,
19 Inc., dba Butler, Robbins & White,

20 Defendant.

1 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 PLEASE TAKE NOTICE that defendant Financial Credit Clearing
3 House-1956, Incorporated, dba Butler, Robbins & White ("BRW") hereby remove
4 to this Court the state court action described below.

5 1. On March 13, 2008, a complaint was filed against BRW by plaintiff
6 Sandra Ma ("Plaintiff") in an action pending in the Superior Court of the State of
7 California in and for the County of Alameda, entitled *Sandra Ma v. Financial*
8 *Credit Clearing House-1956 Incorporated, Inc. dba Butler, Robbins & White.*,
9 Case No. HG08376401. A copy of the state court complaint ("Complaint") is
10 attached hereto as **Exhibit A**.

11 2. This removal petition is timely under 28 U.S.C. § 1446(b) because
12 BRW first received a copy of the Complaint, via United States Mail on March 28,
13 2008.

14 **JURISDICTION**

15 3. This action is a civil action of which this Court has original
16 jurisdiction under 28 U.S.C. § 1331 and that may be removed to this Court by
17 BRW pursuant to the provisions of 28 U.S.C. § 1441(b) in that the Complaint
18 asserts federal claims against BRW allegedly arising under 15 U.S.C. § 1692 *et*
19 *seq.* (the Fair Debt Collection Practices Act).

20 **VENUE**

21 4. The Complaint was filed in the Superior Court of the State of
22 California, County of Alameda. Therefore, venue in the San Francisco Division or
23 the Oakland Division of this District is proper. *See* Local Rule 3-2(d) (stating "all
24 civil actions which arise in the counties of Alameda . . . shall be assigned to the San
25 Francisco Division or the Oakland Division"); 28 U.S.C. § 1441(a) (providing for
26 removal "to the district court of the United States for the district and division
27 embracing the place" where the state court action is pending).

28 //

1 5. BRW is represented by the undersigned.

2
3 DATED: April 23, 2008

SIMMONDS & NARITA, LLP
TOMIO B. NARITA
ROBIN M. BOWEN

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6 By: Robin M. Bowen
7 Robin M. Bowen
8 Attorneys for defendant
9 Butler, Robbins & White
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Exhibit A

1 Scott Maurer (CSB#180830)
(smaurer@scu.edu)
2 Santino Prado (Certified Law Student CSB #20192)
(sprado@scu.edu)
3 KATHARINE & GEORGE ALEXANDER
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4 1030 The Alameda
San Jose, CA 95126
5 (408) 288-7030 - Tel
(408) 288-3581 - Fax
6

C. GREEN

Attorneys for Plaintiff Sandra Ma

8
9 SUPERIOR COURT OF CALIFORNIA
10 IN AND FOR THE COUNTY OF ALAMEDA
11 (Unlimited Jurisdiction Division)

HG08376401

13 SANDRA MA,) Case No.:
14 Plaintiff,)
15 vs.) COMPLAINT FOR VIOLATIONS OF 15
16 FINANCIAL CREDIT CLEARING HOUSE -)) U.S.C. §1692 <i>et seq.</i> , and CALIFORNIA
17 1956 INCORPORATED, Inc, dba Butler,) CIVIL CODE §1788 <i>et seq.</i> , and
18 Robbins & White,) CALIFORNIA CIVIL CODE §1812.700 <i>et</i>
19 Defendant.) seq.

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21 INTRODUCTION

- 22 1. Sandra Ma is a 34 year-old resident of Alameda County. Her only source of income is
23 SSI. She also receives medical insurance through Medi-Cal.
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1 2. During the summer of 2007 Defendants harassed Ms. MA relentlessly to collect a
2 debt they knew or should have known was covered by Medi-Cal. Defendants went so
3 far as to resort to racial taunts and threats to take Ms. MA's home away.

4 3. The following paragraphs are alleged on information and belief: 5,7, and 8.
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8 PARTIES

9 4. Plaintiff SANDRA MA is a natural person, who resides in the City of Hayward,
10 California, located in Alameda County and is a "consumer" as defined by 15 USC
11 §1692a(3) and a "debtor" as defined by Cal. Civil Code §1788.2(h).

12 5. Defendant FINANCIAL CREDIT CLEARING HOUSE - 1956 INCORPORATED,
13 hereafter "FCCH," is a Florida corporation which does business in California. FCCH
14 is a "debt collector" as defined by 15 USC §1692a(6) and Cal. Civil Code ("CC")
15 §1788.2(c).
16

17 FACTUAL BACKGROUND

18 6. SANDRA MA is disabled. Her only source of income is SSI. As a result of her
19 disability she receives health insurance through Medi-Cal.

20 7. In or around August 2006, Ms. MA received medical treatment aboard a Princess
21 Cruise Line ship. Princess Cruise Line has attempted to collect charges for medical
22 care from Ms. MA. Ms. MA and/or persons acting on her behalf provided Princess a
23 copy of her Medi-Cal information. Ms. MA and/or persons action on her behalf
24 provided Princess a copy of her Medi-Cal information. Ms. MA and/or persons acting
25

1 on her behalf instructed Princess to bill Medi-Cal. Apparently Princess did not do so.

2 The money allegedly owed is a "debt" as defined by 15 U.S.C. §1692a(5) and Cal.

3 Civil Code §1788.2(d).

4 8. On a date unknown to Plaintiff but prior to June 29, 2007, Princess assigned the
5 alleged debt to defendant for collection.

6 9. On June 29, 2007, Defendant mailed Ms. MA a letter stating that Defendant is a debt
7 collector and payments for her medical treatment should be sent to their firm.

8 10. During the entire month of July 2007, Defendant called Ms. MA and her mother
9 — everyday, even though she told Defendant that she was covered under Medi-Cal and
10 that Medi-Cal should be contacted for payment.

11 11. Defendant then threatened Ms. MA and her mother with a lawsuit, along with a threat
12 to her mother's home. At one point one of the Defendant's agents made racial
13 remarks to Ms. MA's mother stating that she did not understand the law and that she
14 should "go back to China."
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16 12. Ms. MA and/or persons acting on her behalf informed Defendants that she was on
17 Medi-Cal and that Defendants and/or Princess should bill Medi-Cal. Nonetheless,
18 Defendants continued to call Ms. MA's residence on a daily basis.
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FIRST CAUSE OF ACTION

(Violation of Federal Debt Collection Practices Act: 15 USC §1692 *et seq* "FDCPA")

(Asserted against Defendant FCCH)

13. Plaintiff alleges and incorporates herein by this reference, each and every allegation set forth in all other paragraphs.
14. By continuously and repeatedly calling Ms. MA, FCCH violated the following sections of the Federal Fair Debt Collection Practices Act: 15 U.S.C. §§1692d, 1692d(5), and 1692f.
15. By threatening to take actions against Ms. MA and her mother that could not be legally taken, FCCH violated following sections of the Federal Fair Debt Collection Practices Act: 15 U.S.C. §§1692e, 1692e(4), 1692e(5), and 1692e(10).
16. By telling Ms. MA's mother that she should go back to China, FCCH violated following sections of the Federal Fair Debt Collection Practices Act: 15 U.S.C. §§1692d, and 1692f.

SECOND CAUSE OF ACTION

(Violation of California's Rosenthal Act: Cal. Civil Code §1788 *et seq.*)

(Asserted against Defendant FCCH)

17. Plaintiff alleges and incorporates herein by this reference, each and every allegation set forth in all other paragraphs.
18. By violating the Federal FDCPA as set forth in the First Cause of Action, FCCH violated Cal. Civil Code §1788.17.
19. By implying to Ms. MA that the nonpayment of the debt would result in the loss of her family's home, Defendants violated Cal. Civil Code §1788.10(e)

20. By continuously making telephone calls with unreasonable frequency to Ms. MA, Defendants violated Cal. Civil Code §1788.11(d).

21. The foregoing acts and practices were undertaken willfully and knowingly.

THIRD CAUSE OF ACTION

(Violation of California Civil Code §1812.700 *et seq.*)

(Asserted against Defendant FCCH)

22. Plaintiff refers to and incorporates all paragraphs as though fully set forth herein.

23. By not providing the disclosure required by Cal. Civil Code §1812.700 in FCCH's first collection letter to Ms. MA, FCCH violated Cal. Civil Code §1812.700.

24. The foregoing acts of DEFENDANT were undertaken by it willfully and knowingly

FOURTH CAUSE OF ACTION

(Violation into Seclusion – Invasion of Privacy)

25. Plaintiff alleges and incorporates herein by this reference, each and every allegation set forth in all other paragraphs.

26. The foregoing acts of Defendant FCCH constitute an invasion of Plaintiff's privacy and/or intrusion upon her rights to seclusion.

27. Plaintiff has a common law right to privacy in her home. Defendants' practices in the collection of the alleged debt constitute an invasion upon Plaintiff's seclusion and privacy, and are highly offensive to a reasonable person.

28. Defendant acted with oppression, fraud, and/or malice.

29. Plaintiff is entitled to recover actual and punitive damages.

PRAYER FOR RELIEF

30. Plaintiffs respectfully request that this court:

With respect to First Cause of Action (violation of Federal Act 15 USC §1692)

- a. Award statutory damages of up to \$1,000 pursuant to 15 USC §1692k(a)(2)(A)
- b. Award Actual damages of up to \$25,000 pursuant to 15 USC §1692k(a)(1)
- c. Award Plaintiff attorney's fees and costs pursuant to USC §1692k(a)(3); and
- d. Award Plaintiff other and further relief as the Court may deem proper.

With respect to Second Cause of Action (violation of Cal. Civil Code §1788)

- a. Award statutory damages of up to \$1,000 pursuant to Cal. Civil Code §1788.30(b);
- b. Award actual damages of up to \$25,000 pursuant to Cal. Civil Code §1788.
- c. Award statutory damages of up to \$1,000 pursuant to Cal. Civil Code §1788.17;
- d. Award Plaintiff attorney's fees and costs pursuant to Cal. Civil Code §1788.17 and §1788.30(c); and
- e. Award Plaintiff other and further relief as the Court may deem proper.

With respect to Third Cause of Action (violation of Cal. Civil Code §1812.700)

- a. Award statutory damages of up to \$1,000 pursuant to Cal. Civil Code §1788.30(b);
- b. Award Plaintiff attorney's fees and costs pursuant to Cal. Civil Code §1788.17 and §1788.30(c); and
- c. Award Plaintiff other and further relief as the Court may deem proper.

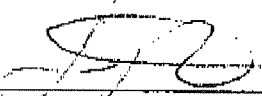
1 With respect to the Fourth Cause of Action (violation into Seclusion – Invasion of Privacy)

- 2 a. Award actual damages according to proof;
- 3 b. Award punitive damages;
- 4 c. Award such other relief that this Court deems necessary and proper.
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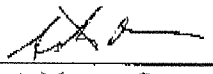
7 Respectfully Submitted,

KATHARINE & GEORGE ALEXANDER
COMMUNITY LAW CENTER

10
11 Dated March 11, 2008


Santino Prado, Certified Law Student*

12
13 Dated March 11, 2008


Scott Maurer, Supervising Attorney*

14
15 *Pursuant to the State Bar rules governing the practical training of law students

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C. GREEN

8 Attorneys for Plaintiff Sandra Ma,

9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF ALAMEDA

11 (Unlimited Jurisdiction Division)

12 SANDRA MA

13 Plaintiff,

14 vs.

15 FINANCIAL CREDIT CLEARING
16 HOUSE - 1956 INCORPORATED, Inc,
17 dba Butler, Robbins & White,

18 Defendants.

Case No. HG 08376401

SANDRA MA'S NOTICE OF RIGHT TO
SEEK PUNITIVE DAMAGES

{Cal. CCP §425.115}

19 NOTICE TO:

20 FINANCIAL CREDIT CLEARING HOUSE - 1956 INCORPORATED, Inc, dba

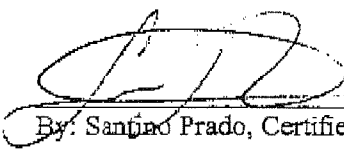
21 Butler, Robbins & White:

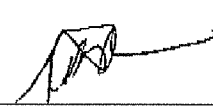
22 SANDRA MA reserves the right to seek \$500,000 in punitive damages when SANDRA MA
23 seeks a judgment in the suit filed against you.
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PLAINTIFF PAMELA TUNG'S NOTICE OF RIGHT TO SEEK PUNITIVE DAMAGES

1
2 Dated: March 11, 2008

ALEXANDER COMMUNITY LAW CENTER

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5 
By: Santino Prado, Certified Law Student*

6
7 
8 Scott Maurer, Supervising Attorney*
9 For Defendant Pamela Tung

10 * Pursuant to State Bar Rules governing the practical training of law students
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